

# Stalking

s 338E Criminal Code

**From 1 January 2021**

**Transitional Sentencing Provisions:** This table is divided into thirds based on the three relevant periods of Sentencing Provisions:

- Post-transitional provisions period
- Transitional provisions period
- Pre-transitional provisions period

These periods are separated by a row which shows when the transitional provisions were enacted, and another showing when they were repealed.

## Glossary:

agg	aggravated
att	attempted
CEM	child exploitation material
conc	concurrent
cum	cumulative
ct	count
EFP	eligible for parole
imp	imprisonment
PG	plead guilty
PNG	plead not guilty
susp	suspended
TES	total effective sentence

No.	Case	Antecedents	Summary/Facts	Sentence	Appeal
1.	<p><i>Siriphanuruk v The State of Western Australia</i></p> <p><b>[2021] WASCA 221</b></p> <p>Delivered on 23/12/2021</p>	<p>38 yrs at time offending. 41 yrs at time sentencing.</p> <p>Convicted after trial.</p> <p>No prior criminal history.</p> <p>Born Thailand; resident of Singapore; not an Australian citizen; good command of English.</p> <p>Mother; two young children in Singapore; not seen children since her arrest.</p> <p>Claims to have a number of university degrees; including in medicine; at time offending making a living from online trading.</p> <p>Diagnosed with and treated for breast cancer on remand; in remission, requires periodic review.</p> <p>Pre-existing cardiac arrhythmia; not requiring treatment.</p>	<p>Cts 1 &amp; 2: Stalking. Cts 3-5: Producing CEM. Ct 6: Using elec comm to expose a person U13 yrs to indec matter. Ct 7, 9-12: Distributing CEM. Ct 8: Extortion.</p> <p>Siriphanuruk engaged in a sustained campaign of intimidation and harassment upon three victims, RJ and his wife A and their daughter R, aged 12-13 yrs.</p> <p>Siriphanuruk lived in Singapore and met RJ on an internet dating site. She and JR communicated for some time before she flew to Perth to meet him. A romantic relationship developed and they frequently spent time together in Perth or Singapore.</p> <p><u>Cts 1 and 2</u> Over a period of about 8 mths Siriphanuruk subjected RJ and A to a series of email barrages. Disguising her identity using multiple personae and email addresses she sent them hundreds of emails using various invented narratives, frequently using highly obscene language. The emails included threats of sexual violence, death threats and details about their daily lives, leading them to believe they were being watched and that their daughter, R, was at real risk of serious physical harm.</p> <p><u>Cts 3, 4 &amp; 5</u> Siriphanuruk obtained digital images of R and superimposed R's face onto the images of a female engaged in sexual activity, creating composite pornographic images.</p> <p><u>Ct 6</u> Siriphanuruk sent R an email attaching three pornographic videos depicting sexual activity among adults.</p> <p><u>Cts 7, 9-12</u></p>	<p>Ct 1: 2 yrs imp (cum). Ct 2: 2 yrs imp (conc). Ct 3: 6 mths imp (cum). Ct 4: 6 mths imp (conc). Ct 5: 6 mths imp (conc). Ct 6: 6 mths imp (cum). Ct 7: 12 mths imp (cum). Ct 8: 12 mths imp (cum). Ct 9: 12 mths imp (conc). Ct 10: 12 mths imp (conc). Ct 11: 12 mths imp (conc). Ct 12: 12 mths imp (conc).</p> <p>All cum sentences cum with ct 1.</p> <p>TES 5 yrs imp.</p> <p>EFP.</p> <p>The sentencing judge found the appellant committed the offences very purposefully with the clear and unequivocal intention of manipulating, harassing and intimidating the victims; her actions cruel and depraved; premeditated; sustained; particularly harmful and she effectively terrorised the victims.</p> <p>The sentencing judge found cts 1 and 2 'grave offences that fell at the top end of the range of seriousness of offences of their kind; the offending was prolonged; extremely distressing to the victims and involved threats of sexual and other violence; some of the emails were the 'most offensive kind' and the appellant went to extraordinary lengths to create in RJ and A sense of helplessness.</p> <p>The sentencing judge described ct 6 as a particularly 'nasty' and 'depraved' offence; cts 7 – 12 were agg by the breadth of the distribution of the composite images of CEM and it was difficult 'to image a more vicious attempt to harm RJ's family'.</p> <p>High degree of psychological distress suffered by victims.</p> <p>No remorse or acceptance of responsibility.</p>	<p>Dismissed – leave refused - on papers.</p> <p>Appeal concerns length of sentence and totality principle.</p> <p>At [88] ... Individually and collectively, the offending was patently very serious. ...</p> <p>At [92] ... the offences were very serious – indeed, close to being characterised as falling within the worst category. ...</p> <p>At [95] ... Given the seriousness of her conduct in committing cts 1 and 2, it is unthinkable that it could have attracted anything but a term of imp to be served immediately.</p> <p>At [105] ... none of the individual sentences imposed ... could reasonably be said to have been manifestly excessive.</p> <p>At [106]-[107] The appellant's overall offending involved a high level of criminality. ... the offending occurred over an extended period of time and involved the terrorisation of three member of one family, including a child.</p> <p>At [112] ... There is nothing in the appellant's conduct or in her personal circumstances, including her ill health and the fact that she must serve the terms of imp away from her children, which would justify any moderation of general deterrence. The appellant's conduct was sustained over a long period, motivated by greed and revenge, and marked by a cruel and callous disregard of the rights and interests of her victims. Such calculated offending must be denounced by an appropriately lengthy sentence, and those who choose to engage in it must expect substantial punishment.</p>

		<p>On five occasions Siriphanuruk emailed the composite pornographic images of R to various recipients.</p> <p>She also sent a number of emails that included links to websites to which she had uploaded the composite pornographic images. One of the recipients included an email address associated with R's school</p> <p><u>Ct 8</u> In an email sent to RJ and A, purportedly by a woman with whom RJ had once been in a relationship, Siriphanuruk demanded US\$10,000. In the email she threatened to distribute the CEM images she had created of R and harm her if the demand was not met.</p>		
--	--	---	--	--